

STATE: MINNESOTA

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94-23/93-35/92-28/91-15/90-24/90-01/89-58/88-65)

ATTACHMENT 4.19-D (NF)

Page 20

Top management personnel. "Top management personnel" means owners, board members, corporate officers, general, regional, and district managers, administrators and the nursing home administrator, and any other person performing the function of such personnel. Persons performing functions only as nursing home department heads are not included in this definition.

Total payment rate. "Total payment rate" means the addition of the operating cost payment rate, the property-related payment rate, and the real estate tax and special assessments payment rate as established by the Commissioner to pay for the care of residents in nursing homes.

Useful life. "Useful life" means the length of time an asset is expected to provide economic service before needing replacement.

Utility vehicle. "Utility vehicle" means a vehicle specially equipped for purposes of nursing home operations and not readily adaptable to personal use.

Vested. "Vested" means the existence of a legally fixed unconditional right to a present or future benefit.

Working capital debt. "Working capital debt" means debt incurred to finance nursing home operating costs. Working capital debt does not include debt incurred to acquire or refinance a capital asset.

Working capital interest expense. "Working capital interest expense" means the interest expense incurred on working capital debt during the reporting year.

SECTION 2.000 GENERAL REPORTING REQUIREMENTS

SECTION 2.010 Required cost reports. No later than December 31 of each year nursing facilities shall submit an annual cost report for the reporting year ending September 30 on forms supplied by the Department. The nursing facility must also obtain an annual audit of its financial records from an independent certified public accountant or licensed public accountant. This examination must be conducted in accordance with generally accepted auditing standards as adopted by the American Institute of Certified Public Accountants and generally accepted accounting principles.

SECTION 2.020 Required information. A complete annual report must include the following:

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: October 1, 2002

Page 21

TN: 02-26

Approved: MAR 7 2003

Supersedes: 02-23 (02-08/01-09/00-22/99-10/99-04/98-22/97-20/97-11/96-25/96-18/95-21/
94-23/93-35/92-28/91-15/90-24/90-01/89-58/88-65)

- A. General nursing facility information and statistical data.
- B. Reports of historical costs with supporting calculations, worksheets, and an explanation of the historical costs.
- C. A complete statement of fees and charges.
- D. A copy of the nursing home's audited financial statements for its fiscal year ending during the reporting year. The audited financial statements must include a balance sheet, income statement, statement of retained earnings, statement of cash flows, appropriate notes to the financial statements, any applicable audited supplemental information, and the certified or licensed public accountant's opinion. If the financial statements are not sufficiently detailed or the nursing home's fiscal year is different from the reporting year, the nursing facility shall provide supplemental information that reconciles costs on the financial statements with the cost report. Beginning with the reporting year which begins October 1, 1992, a nursing facility is no longer required to have a certified audit of its financial statements. The cost of a certified audit shall not be an allowable cost in that reporting year, nor in subsequent reporting years unless the nursing facility submits its certified audited financial statements in the manner otherwise specified in this subdivision. A nursing facility which does not submit a certified audit must submit its working trial balance.
- E. A statement of ownership for the nursing facility, including the name, address, and proportion of ownership of each owner.
- F. Copies of leases, purchase agreements, and other documents related to the lease or purchase of the nursing facility if not previously submitted.
- G. A listing of nursing facility debt outstanding during the reporting year, and the name of the lender, the term of debt, interest rate of debt, interest and principal payments for the current year and all remaining years, and the original amount of debt.
- H. An explanation of all adjustments to the historical costs.
- I. The nursing home's statement of property tax.

SECTION 2.030 Additional information which may be required. Additional information that may be required are access to accountant's workpapers; other audited financial statements for any other Minnesota nursing facility owned by the same owners or for any related organization doing business with the nursing facility; copies of leases, purchase agreements, or other documents related to the purchase of equipment, goods, or services; and access to federal

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: October 1, 2002

Page 22

TN: 02-26

Approved: MAR 7 2003

Supersedes: 02-23 (02-08/01-09/00-22/99-10/99-04/98-22/97-20/97-11/96-25/96-18/95-21/
94-23/93-35/92-28/91-15/90-24/90-01/89-58/88-65)

and state income tax returns; and other relevant information necessary to support a payment request.

SECTION 2.040 Information required from hospital attached nursing facilities. In addition to the above required reports, hospital-attached nursing facilities shall provide a copy of the most recent Medicare cost report filed with the Medicare intermediary for the reporting year.

SECTION 2.050 Reporting real estate taxes and special assessments. The nursing facility shall submit a copy of its statement of property tax payable for the calendar year in which the rate year begins by April 5 of that calendar year. Upon receipt of the statement of property tax payable, the Department shall adjust the payment rate accordingly. Special assessments and related interest paid during the reporting year must be shown on the cost report.

SECTION 2.060 Method of accounting. The accrual method of accounting in accordance with generally accepted accounting principles is the only method acceptable for purposes of satisfying reporting requirements. An exception is made for governmental owned nursing facilities.

SECTION 2.070 Records. The nursing facility shall maintain statistical and accounting records in sufficient detail to support information contained in the cost report for at least five years, including the year following submission of the cost report. For computerized accounting systems, the records must include copies of electronically generated media such as magnetic discs and tapes.

SECTION 2.090 Certification of reports. All reports as to the costs of operations or of medical care provided which are submitted by vendors of medical care for use in determining their rates or reimbursement shall be submitted under oath as to the truthfulness of their contents by the vendor or an officer or authorized representative.

SECTION 2.100 Deadlines and extensions. The deadline for submission of the annual cost report to the Department is December 31. The report must cover the reporting year ending on September 30 of that year. The Department may reject any annual cost report filed by a nursing facility that is incomplete or inaccurate or may require additional information necessary to support the payment rate request. The Department may grant one 15-day extension of the reporting deadline.

SECTION 2.110 Effective date of total payment rate. The Department shall provide to all nursing facilities notice of the total payment rate by May 1 of each year. The total payment rate is then effective from July 1 of that year to June 30 of the following year.

STATE: MINNESOTA

Effective: October 1, 2002

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94-23/93-35/92-28/91-15/90-24/90-01/89-58/88-65)

ATTACHMENT 4.19-D (NF)

Page 23

SECTION 2.112 Extensions. The Commissioner may grant up to a 15 day extension of the reporting deadline to a nursing facility for good cause. To receive such an extension, a nursing facility shall submit a written request by December 1. The Commissioner will notify the nursing facility of the decision by December 15. Between December 1 and December 31, the nursing facility may request a reporting extension for good cause by telephone and followed by a written request.

SECTION 2.120 Noncompliance. If a nursing facility fails to comply with the reporting requirements the Department shall reduce the nursing home's total payment rate to 80 percent of the total payment rate. Reinstatement of the total payment rate is retroactive.

SECTION 2.130 Audits. Nursing facility audits are subject to the following:

A. The Department shall subject all reports and supporting documentation to desk and field audits. Each year the Department shall provide for the on-site audit of the nursing facility cost reports. At least 15 percent of the nursing facilities shall be selected using factors including but not limited to: change in ownership, frequent changes in administration in excess of normal turnover rates; complaints to the Commissioner of Health about care, safety, or rights; where previous inspections by the Department of Health have resulted in correction orders related to care, safety, or rights; or where persons involved in ownership or administration of the facility have been indicted for alleged criminal activity. Retroactive adjustments may be made as a result of desk or field audit findings. If a field audit reveals inadequacies in a nursing home's record keeping or accounting practices, the Department may require the nursing facility to engage competent professional assistance to correct those inadequacies within 90 days so that the field audit may proceed.

B. Field audits may cover the four most recent annual cost reports for which desk audits have been completed and payment rates have been established. The field audit will be an on-site review of the nursing facility's costs and statistical information.

C. Changes in the total payment rate which result from desk or field audit adjustments to cost reports for reporting years beyond the four most recent annual cost reports must be made to the four most recent annual cost reports to the extent that those adjustments affect the total payment rate established by those reporting years.

SECTION 2.140 Amended reports. Amendments to previously filed annual cost reports are governed by items A and B.

A. Nursing facilities may file amendments to previously filed annual cost reports when:

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: October 1, 2002

Page 24

TN: 02-26

Approved: MAR 7 2003

Supersedes: 02-23 (02-08/01-09/00-22/99-10/99-04/98-22/97-20/97-11/96-25/96-18/95-21/
94-23/93-35/92-28/91-15/90-24/90-01/89-58/88-65)

(1) Errors or omissions in the annual cost report are discovered and an amendment would result in at least a five-cent per resident day or \$2,000 adjustment, whichever is less for each reporting year. The Department shall make retroactive adjustments to the total payment rate of an individual nursing facility if the amendment is filed within 14 months of the original cost report to be amended. Errors or omissions that do not meet the threshold amount required for amended cost reports, or errors or omissions discovered after the 14-month time limitation specified in this item, may be claimed at the time of the field audit.

B. Nursing facilities must not amend a previously filed cost report for the purpose of removing costs of services for which the nursing facility seeks separate billing.

SECTION 2.150 False reports. If a nursing facility knowingly supplies inaccurate or false information in a required report that results in an overpayment, the Department shall:

- A. Immediately adjust the nursing home's payment rate to recover the entire overpayment within the rate year;
- B. Terminate the Department's provider agreement with the nursing facility;
- C. Prosecute under applicable state or federal law; or
- D. Use any combination of items A, B, and C.

SECTION 2.155 Treble Damages. Any vendor of medical care who willfully submits a cost report, rate application or claim for reimbursement for medical care which the vendor knows is false representation and which results in the payment of public funds for which the vendor is ineligible shall, in addition to other provisions of Minnesota law, be subject to an action by the State of Minnesota for civil damages. The damages awarded shall include three times the payments which result from the false representation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent.

SECTION 3.000 COST ALLOCATION PROCEDURES

SECTION 3.010 Classification. Classification of costs is the process of charging costs to the appropriate cost categories and compiling a total for each cost category to be recorded on the cost report. Nursing facilities shall classify their costs in accordance with established cost categories. Costs that cannot be specifically classified in a cost category, such as the cost of generic supplies, must be classified in the general and administrative cost category.

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: October 1, 2002

Page 25

TN: 02-26

Approved: MAR 7 2003

Supersedes: 02-23 (02-08/01-09/00-22/99-10/99-04/98-22/97-20/97-11/96-25/96-18/95-21/
94-23/93-35/92-28/91-15/90-24/90-01/89-58/88-65)

SECTION 3.020 Identification. Except for the salary costs of individuals with multiple duties, costs must be directly identified, without allocation, by routine classification of transactions when costs are recorded in the books and records of the nursing facility.

SECTION 3.030 Personnel with multiple duties. When a person other than top management personnel has multiple duties, the person's salary cost must be allocated to the cost categories on the basis of time distribution records that show actual time spent, or an accurate estimate of time spent on various activities. In a nursing facility of 60 or fewer beds, part of the salary or salaries of top management personnel may be allocated to other cost categories to the extent justified in time distribution records which show the actual time spent, or an accurate estimate of time spent on various activities. A nursing facility that chooses to estimate time spent must use a statistically valid method. Persons who serve in a dual capacity, including those who have only nominal top management responsibilities, shall directly identify their salaries to the appropriate cost categories. The salary of any person having more than nominal top management responsibilities must not be allocated.

SECTION 3.040 Central, affiliated, or corporate office costs. Cost allocation for central, affiliated, or corporate offices shall be governed by items A to F.

A. Central, affiliated, or corporate office costs representing services of consultants required by law or rule in areas including dietary, pharmacy, social services, or other resident care related activities may be allocated to the appropriate cost category, but only to the extent that those costs are directly identified by the nursing facility.

B. For rate years beginning on or after July 1, 1990, the central, affiliated or corporate office cost allocation in subitems (1) to (6) must be used when determining rates.

(1) All costs that can be directly identified with a specific nursing facility that is a related organization to the central, affiliated, or corporate office, or that is controlled by the central, affiliated, or corporate office under a management agreement, must be allocated to that nursing facility.

(2) All costs that can be directly identified with any other activity or function not described in subitem (1) must be allocated to that activity or function.

(3) After the costs that can be directly identified according to subitems (1) and (2) have been allocated, the remaining central affiliated, or corporate office costs must be allocated between the nursing facility operations and other activities or facilities unrelated to the nursing facility operations based on the ratio of total operating costs determined as follows:

STATE: MINNESOTA

Effective: October 1, 2002

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94-23/93-35/92-28/91-15/90-24/90-01/89-58/88-65)

ATTACHMENT 4.19-D (NF)

Page 26

a. The numerator for the allocation ratio shall be determined as follows:

i. For nursing facilities that are related organizations or are controlled by a central, affiliated, or corporate office under a management agreement, the numerator of the allocation ratio shall be equal to the sum of the total costs incurred by each related organization or controlled nursing facility.

ii. For a central, affiliated, or corporate office providing goods or services to related organizations that are not nursing facilities, the numerator of the allocation ratio shall be equal to the sum of the total costs incurred by the non-nursing facility related organizations.

iii. For a central, affiliated, or corporate office providing goods or services to unrelated nursing facilities under a consulting agreement, the numerator of the allocation ratio shall be equal to the greater of directly identified central affiliated or corporate costs or the contracted amount.

iv. For business activities that involve the providing of goods or services to unrelated parties which are not nursing facilities, the numerator of the allocation ratio shall be equal to the greater of directly identified costs or revenues generated by the facility or function.

b. The denominator for the allocation ratio is the sum of the numerators in clauses i to iv of a.

(4) Those long term care operations that have nursing facilities both in Minnesota and outside of Minnesota must:

a. Allocate the nursing facility operation's central, affiliated or corporate office costs identified in item C to Minnesota based on the ratio of total resident days in Minnesota nursing facilities to the total resident days in all facilities.

b. Allocate the Minnesota nursing facility operation's central, affiliated or corporate office costs identified in a to each Minnesota nursing facility on the basis of resident days.

(5) Definitions. For purposes of item B, the following have the meaning given them.

STATE: MINNESOTA

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94-23/93-35/92-28/91-15/90-24/90-01/89-58/88-65)

ATTACHMENT 4.19-D (NF)

Page 27

a. "Management agreement" means an agreement in which one or more of the following criteria exist:

i. The central, affiliated, or corporate office has or is authorized to assume day-to-day operation control of the long-term care facility for any six-month period within a 24-month period. "Day-to-day operation control" means that the central, affiliated, or corporate office has the authority to require, mandate, direct, or compel the employees of the long-term care facility to perform or refrain from performing certain acts, or to supplant or take the place of the top management of the long-term care facility. Day-to-day operational control includes the authority to hire or terminate employees or to provide an employee of the central, affiliated, or corporate office to serve as administrator of the long-term care facility.

ii. The central, affiliated, or corporate office performs or is authorized to perform two or more of the following: the execution of contracts; authorization of purchase orders; signature authority for checks, notes, or other financial instruments; requiring the long-term care facility to use the group or volume purchasing services of the central, affiliated, or corporate office; or the authority to make annual capital expenditures for the long-term care facility exceeding \$50,000 or \$500 per licensed bed, whichever is less, without first securing the approval of the long-term care facility board of directors.

iii. The central, affiliated, or corporate office becomes or is required to become the licensee under applicable state law.

iv. The agreement provides that the compensation for services provided under the agreement is directly related to any profits made by the long-term care facility. or

v. The long-term care facility entering into the agreement is governed by a governing body that meets fewer than four times a year, that does not publish notice of its meetings, or that does not keep formal records of its proceedings.

b. "Consulting" agreement means any agreement the purpose of which is for a central, affiliated, or corporate office to advise, counsel, recommend, or suggest to the owner or operator of the nonrelated long-term care facility measures and methods for improving the operations of the long-term care facility.

(6) This section does not apply to payment rates determined under Section 20.040, except that any additional directly identified costs associated with the Department of Human Services' or the Department of Health's managing agent under a receivership agreement must be allocated to the facility under receivership, and are nonallowable costs to the managing

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: October 1, 2002

Page 28

TN: 02-26

Approved: MAR 7 2003

Supersedes: 02-23 (02-08/01-09/00-22/99-10/99-04/98-22/97-20/97-11/96-25/96-18/95-21/
94-23/93-35/92-28/91-15/90-24/90-01/89-58/88-65)

agent on the facility's cost report.

C. Central, affiliated, or corporate office property-related costs of capital assets used directly by the nursing facility in the provision of nursing facility services must be allocated to the nursing facilities which use the capital asset. Central, affiliated, or corporate office property-related costs of capital assets which are not used directly by the nursing facility in the provision of nursing facility services must be allocated to the general and administrative cost category of each nursing facility using the methods described in item B.

D. The useful life of a new capital asset maintained by a central, affiliated, or corporate office must be determined by applying one of the following schedules in subitem (1) or (2):

(1) the useful life of a building is 35 years; of land improvement is 20 years; of a major building improvement is the greater of 15 years or the remaining life of the principal capital asset; of depreciable equipment except vehicles is ten years; and of a vehicle is four years; or

(2) the depreciation guidelines.

E. The useful life of used capital assets maintained by a central, affiliated, or corporate office must be determined based on the physical condition of the used capital asset but the useful life of the used capital asset must not be less than one-half the useful life determined under item D.

F. The useful life of leasehold improvements maintained by a central, affiliated, or corporate office must be either the useful life of the improvement determined under item D or the remaining term of the lease, including renewal periods, whichever is shorter.

SECTION 3.050 General and administrative costs. Except as provided above, general and administrative costs must not be allocated as direct or indirect costs to other cost categories.

SECTION 4.000 DETERMINATION OF ALLOWABLE COSTS

SECTION 4.010 Allowable costs. Only costs determined to be allowable under the methods used to determine payment shall be used to compute the total payment rate for nursing facilities participating in the medical assistance program.

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: October 1, 2002

Page 29

TN: 02-26

Approved: MAR 7 2003

Supersedes: 02-23 (02-08/01-09/00-22/99-10/99-04/98-22/97-20/97-11/96-25/96-18/95-21/
94-23/93-35/92-28/91-15/90-24/90-01/89-58/88-65)

SECTION 4.020 Applicable credits. Applicable credits must be used to offset or reduce the expenses of the nursing facility to the extent that the cost to which the credits apply was claimed as a nursing facility cost. Interest income, dividend income, and other investment income of the nursing facility or related organization are not applicable credits except to the extent that the interest expense on working capital debt is incurred and claimed as a reimbursable expense by the nursing facility or related organization. Interest income must not be offset against working capital interest expense if it relates to a bond sinking fund or a restricted fund if the income is not available to the nursing facility or related organization. Gains or losses on the sales of capital assets used by the nursing facility must not be applicable credits.

SECTION 4.030 Adequate documentation. A nursing facility shall keep adequate documentation.

A. In order to be adequate, documentation must:

- (1) Be maintained in orderly, well-organized files.
- (2) Not include documentation of more than one nursing facility in one set of files unless transactions may be traced by the Department to the nursing facility's annual cost report.
- (3) Include a paid invoice or copy of a paid invoice with date of purchase, vendor name and address, purchaser name and delivery destination address, listing of items or services purchased, cost of items purchased, account number to which the cost is posted, and a breakdown of any allocation of costs between accounts or nursing facilities. If any of the information is not available, the nursing facility shall document its good faith attempt to obtain the information.
- (4) Include contracts, agreements, amortization schedules, mortgages, other debt instruments, and all other documents necessary to explain the nursing facility's costs or revenues.
- (5) Be retained by the nursing facility to support the five most recent annual cost reports. The Department may extend the period of retention if the field audit was postponed because of inadequate record keeping or accounting practices, the records are necessary to resolve a pending appeal, or are required for the enforcement of Minnesota's conditions for participation.